Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matters of:	)	
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Closed Captioning of Video Programming	)	CG Docket No. 05-231
	)	
	)	
Telecommunications for the Deaf, Inc.	)	
Petition for Rulemaking	)	
	)	
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REPLY COMMENTS OF VERIZON[1] ON CLOSED CAPTIONING

As part of its new FiOS TV service, Verizon is committed to providing high quality closed captioning in order to meet the diverse needs of its customers, including in particular members of the deaf and hard-of-hearing community. Verizon also is sensitive to the concerns expressed by TDI and other groups concerning problems they have experienced with other providers, and is committed to addressing any issues that are within our control. However, the current closed captioning rules generally strike the appropriate balance that takes into account the needs of those who benefit from closed captioning as well as practical marketplace realities. Instead of adopting expansive new requirements – particularly on the distributors of video programming – the Commission should focus on enforcing the existing closed captioning rules (although the Commission should make certain improvements to the complaint process that would facilitate improved enforcement). Moreover, the Commission should encourage the industry to explore the particular, common problems that the petitioners complain of – such as captioning prematurely stopping before the end of programs or being lost during commercial

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[1] The Verizon companies ("Verizon") are the affiliated local telephone companies of Verizon Communications Inc. These companies are listed in Attachment A.

breaks – and to establish industry best practices that respond to those issues. We believe that these affirmative measures would effectively respond to the legitimate concerns expressed by TDI in a timely manner without weighing down video distributors with unnecessary and expensive new regulations that ultimately may prove to be less effective.

1. The Current Rules Are Sufficient to Ensure Quality Closed Captioning.

Verizon agrees with the comments filed by many commenters in this proceeding, including NCTA and USTelecom, that explain the adequacy of the current rules in ensuring high quality closed captioning, while taking into account the associated costs and the limitations on the ability of video distributors to guarantee that the closed captioning that they receive from broadcasters or cable networks is mistake-free. Despite the legitimate problems pointed to by TDI, it is undeniable that the availability of closed captioning has increased dramatically since Congress' adoption of closed captioning requirements as part of the Telecommunications Act of 1996.[2] Today, it is estimated that at least 100 million persons benefit from watching captioned television, only 28 million of whom are deaf or hearing impaired.[3] And as of January 1, 2006, the FCC's rules require the captioning of 100% of new non-exempt English language programming.

[2] 47 U.S.C. § 613. Section 613, Video Programming Accessibility, was added to the Communications Act of 1934 by Section 305 of the Telecommunications Act of 1996. Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 (1996).

[3] According to the National Court Reporters Association, captioning serves nearly 100 million Americans—28 million deaf and hard-of-hearing individuals, 3.7 million remedial readers, 12 million young children learning to read, 27 million illiterate adults, and 30 million for whom English is a second language. *See* National Court Reporters Association, *The Captioning Crisis*, at 10 (rel. Sept. 2005), *available at* www.ncraonline.org/infonews/press/Fedlnitiative/whitepaper.pdf. Moreover, this does not include the demand for high quality closed captioning by the millions of other Americans who benefit from closed captioning in situations where listening to the voice track of the programming is difficult or impossible, such as in health clubs, bars, or offices.

Moreover, as new video entrants like Verizon enter the market, they have every incentive to respond to this tremendous demand both inside and outside of the deaf and hard-of-hearing community by taking steps to ensure that the closed captioning that they provide to consumers is of a high technical quality. For example, Verizon believes that the network architecture that we use to provide video services, which utilizes centralized, national headends for the receipt of national content and then distributes video over an advanced, end-to-end fiber network, will minimize the opportunities for things to go wrong with the closed captioning included by the broadcaster or cable network, thus helping to distinguish our video services from those of the embedded incumbent cable operators with whom we compete. When the increasing competition in the video marketplace is coupled with the increased and growing demand for quality closed captioning, there is every reason to believe that both the quality and availability of closed captioning will continue to improve.

While closed captioning will inevitably continue to improve, the Commission must remain sensitive to market realities and decline to adopt intrusive, new regulation – particularly on new entrants into the video market. While Verizon is working to ensure that it receives and passes on closed captioning without any interference or interruption, many of the concerns that the *NPRM* highlights address aspects of closed captioning that are outside of Verizon's control. For example, as a video distributor rather than a broadcaster or other content owner, Verizon is not in a position to ensure the non-technical accuracy of the closed captioning that it transmits to consumers – programming received from broadcasters or cable networks will generally be passed on to customers as soon as, and in the format that, it is received by Verizon. Also, even if it were possible for Verizon to monitor the non-technical aspects of closed captioning on all of the hundreds of channels that it carries – which it is not – our status as a new entrant in the market means that we have limited leverage over broadcasters or cable networks and are not well positioned to grade their papers or to pressure them to improve closed captioning. It would be inappropriate for the Commission to adopt any rules that ignore these market realities or that impose unreasonable or misplaced requirements on video distributors, especially on new entrants into the video market.

2. Instead of Imposing New Regulation, the Commission Should Enforce Existing Closed Captioning Rules.

Rather than addressing any remaining problems with closed captioning by imposing new rules, the Commission should instead focus on enforcement of the existing closed captioning rules. As mentioned above, the existing rules were carefully constructed to balance many competing interests, and these rules have been largely successful in making available closed captioning nearly ubiquitous in a relatively short period of time.[4] Moreover, as NCTA points out in its comments, several of the specific proposals – such as rules addressing non-technical accuracy or rules imposing increased reporting requirements – have already been considered and rejected by the Commission on more than one occasion, and for good reason.[5] The primary (and only certain) effect of adopting most of the heightened standards proposed in the *NPRM*, such as increased monitoring and reporting requirements, would be to increase the compliance costs for programming distributors – costs that would be passed on to all consumers of video services.

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[4] In adopting the closed captioning rules in 1997, the Commission noted that during time periods other than prime time, the amount of closed captioning programming available was limited. *See Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Video Programming Accessibility,* Report and Order, 13 FCC Rcd 3272, ¶ 10 (1997) (*Closed Captioning Report and Order*). Since that time, the amount of captioning has consistently increased as benchmarks have increased, and the benchmark for non-exempt English programming will reach 100% at the beginning of 2006. Evidence that that video programming providers and distributors largely have succeeded in meeting or exceeding the Commission's benchmarks is provided by the small number of complaints about compliance shortfalls.

Rather than taking that unnecessary step, the Commission should ensure that the rules that are already on the books are being followed and effectively enforced. In fact, representatives of the deaf and hard-of-hearing community have noted that one of their biggest closed captioning complaints has been the lack of enforcement of the existing closed captioning rules. But the answer to that problem is not the adoption of new rules – instead, it is enforcement of the rules that already exist. Therefore, the FCC should focus its finite resources on handling and pursuing complaints concerning existing closed captioning practices and on investigating any video distributors that are not complying with their closed captioning obligations.

In order to facilitate the Commission's efforts at improved enforcement, Verizon does not object to some of TDI's suggestions for limited changes to the current closed captioning complaint process. For example, Verizon agrees with TDI that it now makes sense to shorten the time periods that apply to the complaint procedure. Particularly given that the 100% closed captioning benchmark for non-exempt English programming will soon be in effect, it makes sense to require a video distributor to respond within 45 days of receiving any closed captioning complaints, rather than making the consumer wait until 45 days after the end of each quarter, and the shortened timeframe should be the same whether the complaint relates to technical quality or to the satisfaction of the benchmark requirements. This streamlining will make it quicker and easier for consumers to bring unresolved closed captioning issues to the attention of the Commission.

Likewise, Verizon does not object to TDI's suggestion that video distributors maintain contact information on their web sites and on the FCC's web site directing consumers with closed captioning problems to the right place. Verizon already has in place customer service

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[5] *See, e.g., Closed Captioning Report and Order,* at ¶ 222.

representatives who are available 24 hours per day and 7 days per week to assist FiOS TV customers with any closed captioning problems that may arise, and we agree that it is important to make readily available the information that would allow customers to contact these representatives. Similarly, Verizon agrees that it would be appropriate for the FCC to post the proposed complaint form on its web site in order to assist individuals who experience closed captioning problems in assembling the information that they need in order to effectively file a complaint with their video distributor (although no consumer should be required to use a particular form in order to let a distributor know of a closed captioning problem). These affirmative steps would make the closed captioning complaint process more user-friendly for individuals experiencing problems with their closed captioning, and would ultimately make it easier for the Commission to enforce the existing rules.

3. The Commission Should Encourage the Adoption of Industry Best Practices to Resolve Common Closed Captioning Problems.

Finally, in place of increased regulation, the Commission should encourage the video industry to investigate the causes of the common closed captioning problems that have been identified by TDI, and to adopt industry "best practices" that address those issues. In particular, in its petition, TDI noted that closed captioning sometimes cut out several minutes before the associated program concludes. Similarly, TDI noted that closed captioning is sometimes lost during programs' commercial breaks. These are the types of discrete problems that may well be the result of one or more common causes, and that industry best practices might be well situated to address. This targeted, industry-driven approach is far more likely to improve the overall quality of closed captioning than would a broad, new set of regulations that increases costs and administrative burdens without looking at the source of the closed captioning problems that exist today.

Respectfully submitted,

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THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Southwest Incorporated d/b/a Verizon Southwest
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.